

# **NOTICE OF APPEAL FROM THE EXAMINER TO THE BOARD OF PATENT APPEALS AND INTERFERENCES**

Docket Number (Optional)

7780-00414

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on \_\_\_\_\_

Signature \_\_\_\_\_

Typed or printed  
name \_\_\_\_\_In re Application of  
James C. Bedingfield

Application Number

09/817,944

Filed

03/27/2001

For Systems and Methods for Automatically Providing Alerts of Web Site  
Content Updates

Art Unit

2178

Examiner

CAMPBELL, Joshua D.

Applicant hereby **appeals** to the Board of Patent Appeals and Interferences from the last decision of the examiner.The fee for this Notice of Appeal is (37 CFR 41.20(b)(1)) \$ 540.00

- ☐ Applicant claims small entity status. See 37 CFR 1.27. Therefore, the fee shown above is reduced by half, and the resulting fee is: \$ \_\_\_\_\_
- ☐ A check in the amount of the fee is enclosed.
- ☐ Payment by credit card. Form PTO-2038 is attached.
- ☐ The Director has already been authorized to charge fees in this application to a Deposit Account.
- ☒ The Director is hereby authorized to charge any fees which may be required, or credit any overpayment to Deposit Account No. 50-3797.
- ☐ A petition for an extension of time under 37 CFR 1.136(a) (PTO/SB/22) is enclosed.

**WARNING: Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038.**

I am the

- ☐ applicant/inventor. \_\_\_\_\_  
Signature  
Timothy G. Newman
- ☐ assignee of record of the entire interest.  
See 37 CFR 3.71. Statement under 37 CFR 3.73(b) is enclosed.  
(Form PTO/SB/96) \_\_\_\_\_  
Typed or printed name
- ☒ attorney or agent of record. \_\_\_\_\_  
Registration number 34,228 \_\_\_\_\_  
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Registration number if acting under 37 CFR 1.34. \_\_\_\_\_  
07/26/2010  
Date

NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required.  
Submit multiple forms if more than one signature is required, see below".

- ☐ \*Total of \_\_\_\_\_ forms are submitted.

This collection of information is required by 37 CFR 41.31. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11, 1.14 and 41.6. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

Inventor:	James C. Bedingfield		
Title:	System and Method of Automatically Updating Content on a Web Site		
App. No.:	09/817,944	Filed:	03/27/2001
Examiner:	CAMPBELL, Joshua D.	Group Art Unit:	2178
Atty. Dkt. No.:	7780-00414	Confirmation No.:	9851

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**M/S AF**

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

**REMARKS IN SUPPORT OF PRE-APPEAL REQUEST FOR REVIEW**

Dear Commissioner:

In reply to the Final Office Action mailed April 26, 2010, Assignee has concurrently filed a Notice of Appeal and a Pre-Appeal Request for Review. Assignee requests review of the following on appeal.

**The Office Fails To Establish a *Prima Facie* Case of Obviousness****A. Feinleib Fails to Disclose “that a named party has failed to reply to an electronic message”**

Independent claims 1, 7, and 11 recite determining that a named party has failed to reply to an electronic message, and transmitting a copy of content on a web site to the named party as a reminder electronic message. Claims 1, 3, 4, 6, 7, 10, 11, 13, 16, and 18-23 were rejected under 35 U.S.C. 103(a) over U.S. Patent No. 5,937,160 to Davis, in view of U.S. Patent No. 6,405,245 to Burson, further in view of U.S. Publication No. 20030028608 to Patterson, and still further in view of U.S. Patent No. 6,272,532 to Feinleib.

The Office acknowledged that “none of Davis, Burson, or Patterson explicitly disclose sending a reminder e-mail if the user failed to reply to the first e-mail.” *Final Office Action*, p. 5. However, the Office asserts that “Feinleib discloses sending an e-mail regarding a task to be

performed and if the e-mail is replied to a reminder e-mail can be sent at a later time to remind the user to complete the task (column 3, lines 17-33 of Feinleib)” (Emphasis added). *Final Office Action*, p. 5. This is the opposite of what is recited in Assignee’s claims.

Feinleib discloses that the reminder email is sent based on a time specified in an email sent by an individual:

It is body 26 of email message 14 which includes the reminder information. First line 28 in body 26 includes the data and time to send the reminder together with the data to resend the reminder. In this regard, “+7” means the reminder is to be resent, a second time, 7 days after “Nov. 18, 1998”. A blank line follows first line 28 to separate it from third line 30. Line 30 includes the address of the reminder recipient, in this case an email address. Additional recipients of the reminder would be listed one each on consecutive lines (see 30”). A blank line separator follows the list of email recipients. The fifth line 32 of message 26 includes the subject or “re:” line for reminder 12. A blank line separator follows line 32. A text for reminder 12 follows on lines 34 and until the symbol “=” or the end of the message. Again it is understood than module 22 could be configured for innumerable other different, but equally effective formats for transmitting reminder information by email message 14.

*Feinleib*, Col. 3, lines 17-33.

Thus, *Feinleib*’s reminder email is transmitted in response to information located within a message sent from an individual, and not in response to the individual failing to reply to an electronic message. Assignee respectfully submits that Feinleib does not disclose determining that the named party has failed to reply to the electronic message, and transmitting the copy of the content on the web site to the named party as a reminder electronic message.

**B. Davis fails to disclose “retrieving a copy of the content on the web site based on the update type being a random update type”**

Additionally, independent claims 1 and 7 recite determining whether content on a web site corresponding to the named party URL is due to be updated based on the update frequency, and retrieving a copy of the content on the web site based on the update type being a random update type, the random update type specifying a random portion of the content on the web site that is retrieved and the copy of content comprising graphic or text selected from the web site for updating. The Office asserts that Davis discloses these features, because Davis discloses that “if

the URL needs to be updated a user is notified via e-mail at which point the user accesses the page which causes the server to retrieve a copy of the page and present it to the user, the pages content comprising graphics and text (Figure 14D and column 13, line 51-column 12, line 64 of Davis).” *Final Office Action*, pp. 3-4. Assignee respectfully disagrees.

Davis discloses that a user can select a web page from a drop down selection box, but does not disclose that the server retrieves a copy of the web page:

According to another aspect of the present invention, an Information Management System (IMS) module facilitates managing multiple providers of Web page content changes. The IMS module is accessible via a series of password protected Web pages. An exemplary embodiment of the IMS module is illustrated in FIGS. 12A-12D. Referring initially to FIG. 12A, a Web page selection screen 70 is presented to a user accessing the IMS module via a browser. The user can select a Web page from a drop down selection box 72. ***Once a Web page is selected by a user, attributes associated with the Web page can be viewed and/or modified by clicking the attribute button 73.*** In addition, various reports and logs can be viewed, sorted, and printed by clicking the reports button 74. Available reports are preferably sorted by various parameters FIG. 12D)[sic]. A detailed calendar may be created and printed to show an update schedule for a selected Web page as illustrated in FIG. 12C. (Emphasis added).

*Davis*, Col. 13, lines 51-67.

Thus, Davis does not disclose that the user can access the web page as asserted by the Office. Davis does disclose an alternative where once the user has selected a web page from a drop down selection box, the user can view and/or modify attributes associated with the web page. Davis also discloses that the attributes associated with the web page are control parameters for updating the web page:

Referring back to FIG. 12B, an attribute screen 75 for a selected Web page is illustrated. A user having authority to do so can view the attribute screen 75 via a browser. The selected Web page title, HTML source file name and date is displayed in the top portion 75a of the illustrated attribute screen 75. The following displayed information regarding the selected Web page may be modified as needed: “Department responsible for above page” 75b; “Person responsible for page content” 75c; “Person’s email address” 75d; “Person’s phone/ext” 75e; “Dept. Supervisor’s name” 75f; “Dept. Supervisor’s

email address” 75g; “MIS Manager’s name” 75h; “MIS Manager’s email address” 75i; and “Description of page” 75j.

Still referring to FIG. 12B, additional attributes for a selected Web page that can be set or changed using the IMS module are provided. “RPM update frequency” 75k determines how often the contents of the selected Web page are to be updated. The user can enter either the number of days between updates or choose an update period from the available choices. This information is used to automatically generate reminders to content providers. “Send update reminder via email?” 75l determines if the content manager is to receive an e-mail reminder whenever a Web page update is about to come due. The number of days of advance notification may be entered. “Copy MIS manager if reminder is sent?” 75m allows an e-mail reminder to be sent to the MIS manager.

*Davis*, Col. 14, lines 1-24.

Thus, the attributes of the web page are not content of the web page. Therefore, *Davis*’ selection of a web page from a drop down menu does not retrieve the web page as asserted by the Office. Additionally, “FIG. 14D includes two parts, FIG. 14D1 and 14D2, and illustrates the revised web page of FIG. 14C as viewed by a browser on a client.” *Davis*, Col. 5, lines 5-7. Therefore, *Davis* does not disclose retrieving a copy of content that needs to be updated.

Burson, Patterson, and Feinleib fail to overcome the deficiencies of *Davis*. Thus, Assignee respectfully submits that *Davis* in view of Burson, further in view of Patterson, and still further in view of Feinleib does not disclose determining whether content on a web site corresponding to the named party URL is due to be updated based on the update frequency, and retrieving a copy of the content on the web site based on the update type being a random update type, the random update type specifying a random portion of the content on the web site that is retrieved and the copy of content comprising graphic or text selected from the web site for updating.

Independent claim 11 recites that the server, based on the named party and based on the update type being a random update type, is configured to select a random portion of the content residing on the web hosting server, and to cause a copy of the random portion of the content residing on the web hosting server to be submitted to the named party as an e-mail attachment in an electronic message. The Office asserts that *Davis* discloses these features, because *Davis*

discloses that “if the URL needs to be updated a user is notified via e-mail at which point the user accesses the page which causes the server to retrieve a copy of the page and present it to the user, the pages content comprising graphics and text (Figure 14D and column 13, line 51-column 12, line 64 of Davis).” *Final Office Action*, p. 6. Assignee respectfully disagrees.

As stated above with respect to claims 1 and 7, Davis discloses that a user can select a web page from a drop down selection box, and that the user can view and/or modify attributes associated with the web page. However, Davis does not disclose selecting a random portion of the content residing on the web hosting server, and causing a copy of the random portion of the content residing on the web hosting server to be submitted to the named party. Burson, Patterson, and Feinleib fail to overcome the deficiencies of Davis. Thus, Assignee respectfully submits that Davis in view of Burson, further in view of Patterson, and still further in view of Feinleib does not disclose that the server, based on the named party and based on the update type being a random update type, is configured to select a random portion of the content residing on the web hosting server, and to cause a copy of the random portion of the content residing on the web hosting server to be submitted to the named party as an e-mail attachment in an electronic message.

### CONCLUSION

The combination proposed by the Office fails to contain all of the features of the independent claims. The Office has therefore failed to establish *prima facie* case of obviousness under MPEP § 2143.03. Because remaining claims 3, 4, 6, 10, 13, 16, and 18-23 depend from one of independent claims 1, 7, or 11, the final rejection should be reversed. The Commissioner is hereby authorized to charge any fees that may be required, or credit any overpayment, to Deposit Account Number 50-3797.

Respectfully submitted,

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